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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,414	08/26/2003	Russell S. Neville	1776-0035	4003

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Maginot, Moore & Beck LLP  
Chase Tower  
111 Monument Circle, Suite 3250  
Indianapolis, IN 46204-5109

EXAMINER
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POLLACK, MELVIN H

ART UNIT	PAPER NUMBER
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2145

MAIL DATE	DELIVERY MODE
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12/07/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/648,414

**Applicant(s)**

NEVILLE ET AL.

**Examiner**

Melvin H. Pollack

**Art Unit**

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 September 2007.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-22 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date 9/27/07  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Individual Patent Application  
6) ☒ Other: see attached office action

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.
2. The 112 rejections have been withdrawn in light of the amendment and remarks.
3. In response to the amendment and remarks, the original claims of art have been modified to add new art. Specifically, the new art teaches the amended claims only.
4. In the response to the last office action, the applicant changed the scope of the claims by adding several new limitations to all independent claims. The examiner has determined that the change in scope is materially sufficient to necessitate search and consideration of the added limitations and/or clarifications. As a result, a final amendment is necessitated even if the examiner provides a new art rejection. The examiner acknowledges that no new matter has been added by this amendment.
5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that "the web server is configured to automatically respond to requests for information from the backend server (pp. 14-15)") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The only step of a backend server requesting information of a peripheral device (the directive web page) is separate and distinct from the earlier step of constructing, sending, and formatting HTTP messages from a web server. As such, the claims may be interpreted such that the web server messages are sent automatically

rather than by response to polling, and that the response to the request for more information may or may not come from the web server.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 5-9, 12-14, and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Assauchi (7,013,410) in view of Skanning et al. (6,879,973) and Wolff (6,209,048).

7. Assauchi teaches a method and system (abstract) of remotely diagnosing a printer (col. 1, line 1 – col. 4, line 45; col. 17, lines 1-60), wherein device functionality information is provided to the server (col. 5, lines 5-30). The server analyzes the information (col. 7, lines 1-45) and then, using a knowledge base, begins to automatically ask questions of the system for which the system automatically responds (col. 7, line 45 – col. 9, line 55) to which a solution is generated (col. 11, line 55 – col. 13, line 5).

8. Assauchi teaches that the client has a browser (Fig. 1, #20), but does not expressly disclose that the communication occurs through the browser. Assauchi also teaches that a hardware repair method may be suggested (col. 12, lines 19-20), but does not expressly disclose a suggestion to replace a component. Skanning teaches a method and system (abstract) of performing automated diagnoses of printer systems (col. 1, line 1 – col. 7, line 45) using a rules-based diagnostic database (col. 7, line 45 – col. 8, line 60) and a web browser (col. 8, line 60 –

col. 9, line 20), wherein the solution may be determined as replacement of a component (col. 13, lines 55-67). At the time the invention was made, one of ordinary skill in the art would have combined the inventions in order to lower expenses (col. 1, lines 15-20).

9. Assauchi and Skaaning do not expressly disclose that the peripheral includes a web server for providing HTTP messages. Wolff teaches a method and system (abstract) of receiving peripheral device functionality information (col. 1, line 1 – col. 3, line 40; col. 9, line 15 – col. 10, line 45) that comprises this limitation (Fig. 2; col. 5, line 30 – col. 9, line 15). At the time the invention was made, one of ordinary skill in the art would have added Wolff's web server peripheral in order to ensure the usage of standardized drivers (col. 10, lines 25-35).

10. Claims 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asauchi and Skanning and Wolff as applied to claims 1 and 12 above, and further in view of Webb et al. (5,727,135).

11. Asauchi and Skanning and Wolff do not expressly disclose using a PostScript function interface to generate the functionality information. Webb teaches a method and system (abstract) of obtaining functionality information from a printer (col. 1, line 1 – col. 7, line 35; col. 24, lines 1-15) via a PostScript interface<sup>4</sup> (col. 12, lines 5-10). At the time the invention was made, one of ordinary skill in the art would have added Webb in order to operate with legacy drivers (col. 8, lines 35-45).

12. Claims 10, 11, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asauchi and Skanning and Wolff as applied to claims 1 and 12 above, and further in view of Lozano et al. (7,168,003).

13. Asauchi and Skanning and Wolff do not expressly disclose that web pages utilize the HTML format nor do they expressly disclose that printer functionality information comprises data in an XML format. Lozano teaches a method and system (abstract) of remotely maintaining printers (col. 1, line 1 – col. 4, line 20; col. 12, lines 30-50), wherein communications are used as described in an HTML format (col. 4, line 20 – col. 6, line 50) and XML format (col. 10, line 25 – col. 12, line 30 and Appendix A). At the time the invention was made, one of ordinary skill in the art would have added these features to improve analysis-updating methods (col. 4, lines 55-65).

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They regard further teachings of web servers and HTTP messaging in peripherals. Note that a peripheral has been defined beyond a printer to include cooling and power systems, web servers, gateways, and switching elements.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin H. Pollack whose telephone number is (571) 272-3887. The examiner can normally be reached on 8:00-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melvin H Pollack  
Patent Examiner  
Art Unit 2145

MHP  
04 December 2007

/Jason D Cardone/  
Supervisory Patent Examiner,  
Art Unit 2145